

SCR CHAPTER 13

INTEREST ON TRUST ACCOUNTS PROGRAM

SCR 13.01 Creation and purpose; definitions. (1) An interest on trust accounts program of the state bar is created for law-related charitable and educational purposes as provided by this chapter.

(2) In this chapter, unless the context otherwise requires:

(a) "Attorney" means a person who is an active member of the state bar of Wisconsin who is providing legal services under his or her license to practice law in Wisconsin.

(b) "Board" means the board specified in SCR 13.02(1).

(c) "Program" means the interest on trust accounts program administered by the Wisconsin Trust Account Foundation, Inc.

(d) "State bar" means the state bar of Wisconsin.

SCR 13.02 Administration. (1) The program shall be operated and administered by the board of a Wisconsin nonstock, nonprofit corporation organized for law-related charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954, as amended (or corresponding provisions of any future federal internal revenue laws), to be known as the Wisconsin Trust Account Foundation, Inc.

(2) The board shall consist of 15 persons. The president of the state bar shall appoint, with the approval of the state bar board of governors, 9 attorney and 3 non-attorney members who shall serve staggered 3-year terms. The chief justice shall appoint 3 members from the Wisconsin judiciary who shall serve staggered 2-year terms. The terms of 3 attorney and one non-attorney members shall expire each year. No person may serve more than 2 full terms consecutively.

(3) Each year the board shall select a board member to serve as chairperson at the pleasure of the board.

(4) The board members shall serve without compensation but shall be entitled to reimbursement from the program for their expenses reasonably incurred in the performance of their duties.

SCR 13.03 Powers and duties of the board. (1) In consultation with the state bar board of governors, the board shall adopt articles of incorporation, bylaws and rules and procedures consistent with this chapter for the management and administration of the program and its

affairs. Except as provided in sub. (2), these actions are subject to review by the supreme court on its own motion or upon petition of any interested party.

(2)(a) The board shall accept grant applications and make grants or expenditures of funds received under SCR 20:1.15(c) for any of the following purposes:

1. To provide legal aid to the poor.
2. To fund programs for the benefit of the public as may be specifically approved from time to time by the supreme court for exclusively public purposes.
3. To pay the reasonable and necessary expenses of the board and other costs reasonably and necessarily incurred for the administration of the program, including the employment of staff for that purpose.

(b) Grant-making decisions of the board are final and not subject to appeal or judicial review.

(3) Funds received by the program under SCR 20:1.15(c) may be invested by the board.

(4) If a client asserts a claim against an attorney based upon the attorney's determination to place the client's funds in a trust account under SCR 20:1.15(c)(1) rather than in a segregated trust account under SCR 20:1.15(c)(2), the board, upon written request by the attorney, shall review the claim and:

(a) If, at the time of their deposit, the funds could reasonably have been expected to produce a positive net return to the client, approve the claim and remit directly to the claimant any sum of interest remitted to the board on account of the funds; or

(b) If, at the time of their deposit, the funds could not reasonably have been expected to produce a positive net return to the client, reject the claim and advise the claimant in writing of the grounds therefor. If there is subsequent litigation involving the claim, the board shall interplead any sum of interest remitted to the board on account of the funds and shall assume the defense of the action.

(5) The program shall be audited by auditors annually and at such other times as the supreme court may direct, the audits to be at the expense of the program. Each year the program shall submit to the supreme court and the state bar board of governors a report, including the audit, reviewing in detail the administration of the program and its activities during the preceding year.

SCR 13.04 Attorney participation in the program. (1) An attorney shall participate in the program as provided in SCR 20:1.15 unless:

- (a) The attorney certifies on the annual trust account statement

filed with the state bar that:

1. Based on the attorney's current annual trust account experience and information from the institution in which the attorney deposits trust funds, service charges on the account would equal or exceed any interest generated; or

2. Because of the nature of the attorney's practice, the attorney does not maintain a trust account; or

(b) The board, on its own motion or upon application from an attorney, grants a waiver from participation in the program for good cause.

(2) The board may reimburse an attorney incurring service charges on an account established under SCR 20:1.15(c)(1) if the charges were reasonably and necessarily related to the attorney's participation in the program.

(3) Refusal or neglect by an attorney to participate in the program, except as provided under sub. (1), constitutes professional misconduct and may be grounds for disciplinary action under the rules governing enforcement of attorneys professional responsibility.

SCR 13.05 Grants of program funds. (1) The program may make grants of available funds to eligible programs for any of the purposes specified in SCR 13.03(2).

(2) The program is authorized to maintain a reasonable reserve fund.

(3) The program shall solicit applications for grants at least annually.

(4) The board shall promulgate written rules and procedures for submission, review and approval of grant applications and for termination of grants.

(5) The program shall require grantees to submit a report detailing application of the grant funds within a reasonable time after the conclusion of the period for which the grant was made. The board may require periodic interim reports at any time respecting a particular grantee.